

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ANDRE D. WILLIAMS,

Plaintiff,

vs.

UNKNOWN BROWN, et al.,

Defendants.

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Case No. 4:07-CV-1486 JCH

ORDER AND MEMORANDUM

This matter is before the Court upon the application of Andre D. Williams for leave to commence this action without payment of the required filing fee. See U.S.C. § 1915(a). Upon consideration of the financial information provided with the application, the Court will grant plaintiff provisional leave to file this action.

The Complaint

Plaintiff, an inmate at the Southeast Correctional Center in Charleston, Missouri, seeks declaratory and monetary relief pursuant to 42 U.S.C. § 1983. Plaintiff's claims arise from his confinement at the Ozark Correctional Center ("OCC"). Named as defendants are Unknown Brown (OCC treatment caseworker), Virgil Landsdowne (OCC superintendent), Robert G. Smith (a doctor employed at OCC), K. Sutter (OCC staff member), Unknown Pope (OCC nurse), Unknown Gray (OCC staff member), Robert Johnson (OCC caseworker), Unknown Buckelew (OCC caseworker), Unknown Redburn (OCC correctional officer), Unknown Green (OCC correctional officer), Ozark Correctional Center, M. Dittmeier (OCC functional unit manager), and Unknown Callaway (OCC staff member).

Discussion

Pursuant to 28 U.S.C. § 1391(b), venue for this action is proper where (i) any defendant resides, if all the defendants reside in the same state; (ii) a substantial part of the events or omissions giving rise to the claim occurred; or (iii) where any defendant may be found, if there is no district in which the action may otherwise be brought. All of the events described in the complaint occurred at the OCC which is located in the Western District of Missouri. See 28 U.S.C. § 105(b)(1)(5). Also, all of the defendants are OCC employees and can be found in the Western District of Missouri. Therefore, venue is not proper in the Eastern District of Missouri.

Pursuant to 28 U.S.C. § 1406(a), the District Court in which is filed a case laying venue in the wrong district may dismiss the case or, in the exercise of its discretion and in the interest of justice, transfer the petition to any District Court in which such action could have been brought. In cases involving a plaintiff who is proceeding pro se and in forma pauperis, especially a prisoner, the usual practice is to transfer the case to the proper district. Therefore, this complaint shall be transferred to the United States District Court for the Western District of Missouri.

Because venue is not proper in this district, no determination has been made as to whether the complaint is frivolous or fails to state a claim or both pursuant to 28 U.S.C. § 1915(e)(2)(A)(B).

In accordance with the foregoing,

IT IS HEREBY ORDERED that plaintiff is provisionally granted leave to proceed in forma pauperis, subject to modification by the Western District of Missouri upon transfer, and that the Clerk shall receive and file the complaint in this action without payment of the required filing fee.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint because it is being transferred to the Western District of Missouri.

An appropriate order shall accompany this order and memorandum.

Dated this 27th day of September, 2007.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE